

Application No. 10/708,205
Docket No. 137229
Amendment dated September 5, 2006
Reply to Office Action of June 5, 2006

REMARKS

In the Office Action, the Examiner reviewed claims 1-15 of the above-identified US Patent Application, with the result that:

- (a) claims 5, 6, 10, and 11 were rejected under 35 USC §112, second paragraph;
- (b) claims 1-4, 7-9, and 12-15 were rejected under 35 USC §103 as being unpatentable over U.S. Patent No. 6,004,683 to Rafferty et al. (Rafferty) in view of U.S. Patent Application Publication No. 2003/0066177 to Schnell et al. (Schnell) and U.S. Patent Application Publication No. 2004/0096322 to Caddell et al. (Caddell) alone or in further view of either U.S. Patent Application Publication No. 2002/0076571 to Johnson et al. (Johnson) or U.S. Patent No. 6,195,864 to Chesnes.

Claims 5, 6, 10, and 11 were not rejected in view of any prior art, and are therefore believed to be patentable over the applied prior art if the rejection under 35 USC §112 is overcome.¹

¹ See MPEP §2143.03: "A claim limitation which is considered indefinite cannot be disregarded. If a claim is subject to more than one interpretation, at least one of which would render the claim unpatentable over the prior art, the examiner should reject the claim as indefinite under 35 U.S.C. 112, second paragraph (see MPEP §706.03(d)) and should reject the claim over the prior art based on the interpretation of the claim that renders the prior art applicable." (Original emphasis; citation omitted.)

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In response, Applicants have amended the claims as set forth above.

More particularly:

Independent claims 1 and 8 have been amended to incorporate all limitations of their respective dependent claims 5 and 10, which have been canceled without prejudice to Applicants.

Independent claim 1 has been further amended to incorporate the limitation from its dependent claim 3 that the braze material and the wear-resistant alloy are initially in the form of powders within the braze tape.

In view of the cancellation of their respective parent claims 5 and 10, dependent claims 6 and 11 have been amended to depend directly from independent claims 1 and 8, respectively.

Applicants believe that the above amendments do not present new matter. Favorable reconsideration and allowance of claims 1-4, 6-9, and 11-15 are respectfully requested in view of the above amendments and the following remarks.

The §112 rejection of claims 5, 6, 10, and 11 was on the basis that "it is not clear how the wear resistant coating can have a composition different from the braze tape when the wear resistant coating is formed by machining the built up portion of the braze tape." Applicants are unclear regarding the

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explanation of this rejection, since the claims never recite the composition of the "wear resistant coating."

Using the language of independent claim 1, independent claims 1 and 8 (from which claims 5, 6, 10, and 11 depend) require "forming a braze tape from a slurry." The braze tape thus formed comprises the wear-resistant alloy and the braze material, without specifying anything further regarding the composition for the braze tape. Furthermore, independent claims 1 and 8 do not specify anything regarding the composition of the "wear-resistant coating," other than it is formed from the "braze tape."

Dependent claims 5 and 10 merely specify a specific composition for the wear-resistant alloy, and dependent claims 6 and 11 (prior to their current amendments) specified a specific composition for the braze material and the relative amounts of the braze material and wear-resistant alloy within the braze tapes. Again, nothing is recited regarding the composition for the "wear-resistant coating" (other than being formed from the braze tape). Therefore, Applicants do not understand how claims 5, 6, 10, and 11 could be read to recite that "the wear resistant coating [has] a composition different from the braze tape."

In view of the above, Applicants respectfully request withdrawal of the rejection under 35 USC §112.

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Because independent claims 1 and 8 have been amended to incorporate the limitations of their dependent claims 5 and 10, which were subject only to the rejection under 35 USC §112, Applicants respectfully believe that claims 1 and 8 and their remaining dependent claims are in condition for allowance.

Should the Examiner have any questions with respect to any matter now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,

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